

1) The current mapping in the proposed rule lists all of Puget Sound as "Area 2", and lists the entire area as having a critical habitat designation. However, according to the supporting Biological Report issued in June 2006 by the National Marine Fisheries Service Northwest Region, the area around Olympia and Key Peninsula had only 1-5 Southern Resident killer whale sightings in the past 13 years, which equates to a maximum of 0.3 sighting per year. Similarly, only 6-25 sightings have been recorded in the past 13 years in the Tacoma and Gig Harbor area, which gives a maximum of 1.9 sightings per year. What is the justification of listing this area with so little documented information to support this designation? How will the National Marine Fisheries Service be able to justify and back up claims of critical habitat in these areas where there is so little documented evidence? How will National Marine Fisheries Service be able to enforce mitigation or conservation for the primary constituent elements in these areas with so little factual support?

2) The June 2006 Biological Report says that the Whale Museum data used to form the basis of the proposed rule for critical habitat designation is "predominantly opportunistic sightings from a variety of sources, including public reports, commercial whale watching industry pager system, Soundwatch, Lime Kiln State Park land-based observations, and from compilations of independent researcher reports." How has the Whale Museum confirmed and verified that these reports are, indeed, of Southern Resident killer whale and not of transient populations? Although many of the reporting sources listed are credible, some may be individuals with little marine mammal experience in identification techniques. As the prey types are different, the movements and forage areas could vary greatly between the two distinct genetic segments, and therefore, so could the PCE's that make up the critical habitat. Please explain and validate the processes used to verify this information and ensure that these populations were Southern Resident and not transient.

Thank you for the opportunity to comment on the proposed rule.

Sincerely,  
Michelle Banonis

.:\*~\*:.\_.\*~\*:.\_.\*~\*:.\_.\*~\*:.\_.\*~\*:.\_.\*~\*:.\_.\*~\*:.  
Michelle L. Banonis, Environmental Biologist  
Pierce County Public Works and Utilities, Transportation Services  
Consultant Resources and Environmental Section  
2702 South 42nd Street  
Suite 309  
Tacoma, Washington 98409  
Phone: (253)798-7044  
Fax: (253)798-3661